

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JOSEPH VAN LOON; TYLER ALMEIDA;
ALEXANDER FISHER; PRESTON VAN LOON;
KEVIN VITALE; and NATE WELCH,

Plaintiffs,

- against -

DEPARTMENT OF THE TREASURY; OFFICE OF
FOREIGN ASSETS CONTROL; JANET YELLEN,
in her official capacity as Secretary of the Treasury; and
ANDREA M. GACKI, in her official capacity as Director
of the Office of Foreign Assets Control,

Defendants.

No. 1:23-cv-312-RP

AFFIDAVIT OF KEVIN VITALE

Kevin Vitale declares as follows:

1. I am a principal crypto engineer at GridPlus, where I manage, hire, and expand the company's engineering team and provide strategic direction to the company. I also own and operates a small business, where I am a blockchain network engineer who manages infrastructure for Ethereum-staking and other related blockchain activities.

2. I am a citizen of the United States of America.

3. I currently reside in Michigan.

4. I am not a terrorist or a criminal.

5. I do not launder money.

6. I am not a member of the government of North Korea or the North Korean Workers' Party.

7. I do not support terrorism, illegal activity, the government of North Korea, or the Korean Workers' Party.

8. I submit this declaration in support of Plaintiffs' Motion for Partial Summary Judgment in the above-captioned case.

9. I am familiar with all of the allegations set forth in the Amended Complaint filed in this action. Those allegations are true and correct to the best of my knowledge and belief.

10. I am personally familiar with the facts stated in this declaration.

Use of Tornado Cash

11. I own crypto assets.

12. As part of my job, I have a public ENS name that is posted to my public Twitter profile.

13. I am concerned about my privacy and safety because malicious actors could target the assets generated by my Ethereum-staking business. I worry that other strangers could follow my public transaction patterns on the Ethereum blockchain and identify the valuable crypto assets in my possession. For example, in 2021, a contractor working in the vicinity of the location where I engage in staking realized that that I staked Ether and asked how much money I made.

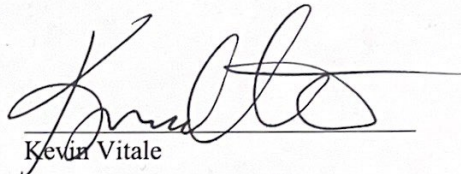
14. I have written proof-of-concept code that used the open-source Tornado Cash code to allow those who stake Ethereum to have greater security and privacy. In 2021, an innovative smart contract I wrote along with Plaintiff Alexander Fisher was awarded a first-place prize at ETHDenver, a member-owned community innovation festival.

15. When OFAC first designated Tornado Cash in August 2022, I had imminent plans to transfer 10 ETH, or approximately \$17,000 today, to Tornado Cash for future investments in

business opportunities maintaining Ethereum infrastructure. I was prevented from doing so by OFAC's designation.

16. If Tornado Cash were no longer designated, I would use Tornado Cash for personal purposes and for funding my business operations while protecting my privacy and security.

I, Kevin Vitale, swear or affirm and declare under penalty of perjury that the foregoing is true and correct.

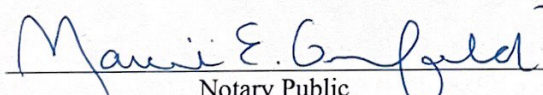


Kevin Vitale

Dated March 30th, 2023

State Michigan
County of Wayne
City of Plymouth

Subscribed and sworn to or affirmed before me
this 30 day of March in the year 2023.



Notary Public
(sign and affix seal or stamp)

MARCIE E. GREENFIELD
Notary Public, State of Michigan
County of Washtenaw
My Commission Expires 04-21-2026
Acting in the County of Wayne